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III. Venue and Jurisdiction

4. The Court has subject matter jurisdiction over this matter in that Plaintiff asserts claims under federal law and the remaining claims are part of the same case or controversy.

5. The Court has personal jurisdiction over the Employer in that this matter arises from the Employer's employment of the Plaintiff out of its facility which is located in Queens.

6. Venue is appropriate in that this matter in the Eastern District in that this matter arises from the Defendant's employment of the Plaintiff at its facility which is located in Queens.

IV. Background

7. At all times relevant to this complaint, the Employer operated a limousine service.

8. Plaintiff was employed by the Employer as a driver for approximately 8 years until his employment ended in or about July of 2019.

9. Plaintiff's pay was comprised of a modest hourly rate combined with a commission, i.e. a percentage of the Employer's revenue for each job he performed.

10. Plaintiff regularly worked well in excess of 40 hours per week and was therefore entitled to overtime pay. Although Plaintiff's hours were not exactly the same every week, in a typical week he worked at least Sunday through Thursday starting from approximately 1pm and finishing between 11pm and midnight. Also, he frequently worked on Fridays. Moreover, if there was a special event taking place, it was common for him to work substantially more. For example, during the time of the US Open in 2018, he worked approximately 70-100 hours per week. Upon information and belief,

Plaintiff's hours are reflected in the Employer's records which are incorporated herein by reference.

11. The Employer did pay overtime premiums to Plaintiff, but did not incorporate his commissions into his regular rate. Thus his overtime premiums were substantially short.

V. Causes of Action and Demand for Relief

Count One: Violation of New York Wage & Hour Law

12. The allegations contained in the preceding paragraphs are incorporated as if restated herein.

13. Plaintiff was an employee of the Employer within the meaning of the New York Minimum Wage Act and accompanying regulations.

14. The Employer was an employer within the meaning of those same regulations in that it employed Plaintiff.

15. The Defendants violated the above law and regulations in that it they did not properly compensate Plaintiff for the hours and overtime hours he worked.

Count Two: Violation of the Fair Labor Standards Act

16. The allegations contained in the preceding paragraphs are incorporated as if restated herein.

17. The Employer is covered by the Fair Labor Standards Act in that it had revenues of over \$500,000 per year and more than one employee handled goods which had moved in interstate commerce.

18. The Defendant violated the Fair Labor Standards Act in that it did not properly compensate Plaintiff for the overtime hours he worked.

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WHEREFORE Plaintiff demands judgment against the Employer in the amount of his unpaid back wages, overtime and liquidated damages, compensatory damages, and other damages, in an amount not more than \$150,000.00 which includes attorneys fees and costs, and such other and further relief that the Court deems just.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David Abrams", is positioned above the typed name.

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New York, New York